

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

VIRGIL GRIFFIN,)	
)	
Plaintiff,)	
)	
v.)	No. 1:19-cv-00882-JPH-MPB
)	
C. EVANS, et al.)	
)	
Defendants.)	

Order Denying Motion to Reconsider

The plaintiff's motion to reconsider, *dk.* [125], is **denied**. In its Entry dated December 9, 2019, the Court allowed the plaintiff's Eighth Amendment claims alleging deliberate indifference to a serious medical need to proceed against Lieutenant McCutcheon, Sergeant Sarten, Dr. Talbot, Nurse Moore-Groves, Nurse Walker, and Director of Nurse Stephens. *See* *dk.* 119. In the same Entry, the Court dismissed the plaintiff's breach of contract claims. *Id.*

The plaintiff now contends that the Court should have inferred that his breach of contract claims were based on the theory that the plaintiff is a third-party beneficiary to a contract between Wexford and the Indiana Department of Correction. *Dkt.* 125. While a *pro se* complaint should be construed liberally, *see Perez v. Fenoglio*, 792 F.3d 768, 776 (7th Cir. 2015), the plaintiff alleged no facts from which the Court could have inferred that the plaintiff stated a breach of contract claim as a third-party beneficiary. Specifically, in Indiana, a third party may sue to enforce a contract if it "clearly appear[s] that it was the purpose or a purpose of the contract to impose an obligation on one of the contracting parties in favor of the third party." *Cain v. Griffin*, 849 N.E.2d 507, 514 (Ind. 2006) (quoting *OEC-Diasonics, Inc. v. Major*, 674 N.E.2d 1312, 1315 (Ind. 1996)). The plaintiff made no factual allegations about the terms of the contract between Wexford and the

Indiana Department of Correction, including any allegations that a clear purpose of the contract is to impose an obligation on one of the contracting parties in favor of the plaintiff.

SO ORDERED.

Date: 1/3/2020



James Patrick Hanlon
United States District Judge
Southern District of Indiana

Distribution:

VIRGIL GRIFFIN
998996
PENDLETON - CF
PENDLETON CORRECTIONAL FACILITY
Inmate Mail/Parcels
4490 West Reformatory Road
PENDLETON, IN 46064

Douglass R. Bitner
KATZ KORIN CUNNINGHAM, P.C.
dbitner@kkclegal.com

Bryan Findley
INDIANA ATTORNEY GENERAL
bryan.findley@atg.in.gov

Matthew Stephen Koressel
INDIANA ATTORNEY GENERAL
matthew.koressel@atg.in.gov

Sarah Jean Shores
INDIANA OFFICE OF THE ATTORNEY GENERAL
sarah.shores@atg.in.gov

Jordan Michael Stover
INDIANA ATTORNEY GENERAL
jordan.stover@atg.in.gov